

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9902 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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DAHYABHAI SHAMALBHAI CHARAN

Versus

JETHABHAI GOVINDBHAI CHARAN  
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Appearance:

MR ND GOHIL for Petitioners

MS. S.K.VISHEN FOR MS SG VARGHESE for Respondent No. 1  
SERVED for Respondent No. 2 and 3.

MR. T.H. SOMPURA, LD.GOV.T.PLEADER for Respondent No. 4

MR HS MUNSHAW for Respondent No. 5  
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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 09/01/97

ORAL JUDGEMENT

Rule. Ms. S.K. Vishen, Mr. T.H. Sompura and Mr.  
H.S. Munsha, learned counsels for Respondents waive

service of the rule.

Upon hearing the learned counsels for the parties, it appears that the present petition requires a partial recognition and the matter requires to be remanded to the Secretary, Revenue (Appeals) for the hearing, according to law and on merits.

It appears that, some land of village Kathadia under Halol taluka of Panchmahals district came to be transferred and allocated as the Gamtal. The Respondents No.1 to 3 had preferred the Revision Application, which came to be decided by the Deputy Secretary, Revenue (Appeals) State of Gujarat at Ahmedabad. The outcome of the said proceedings is adverse to the petitioners. Learned counsel for the petitioners therefore urges that, the said orders are bad in law, as they have been passed behind the back of the petitioners and without affording them a reasonable opportunity of being heard. The orders in question would go to show that the petitioners were not made the parties in the proceedings and they were not heard, and they were not afforded a reasonable opportunity of being heard.

In view of these undisputed facts, the present petition requires to be allowed in part and after setting aside the impugned orders dated May 06, 1995, the matter requires to be remanded to the Deputy Secretary, Revenue (Appeals) for a fresh decision, according to law. The present petition therefore is partly allowed. The impugned orders are hereby set aside and the matter is hereby remanded to the said authority for the decision of the Revision, according to law and on merits, after affording a reasonable opportunity of being heard to the petitioners. Rule is made absolute to the above said extent only.

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